

DEC -4 2015

383686



## OFFICE OF THE STATE'S ATTORNEY

BUTTE COUNTY, SOUTH DAKOTA

**HEATHER L. PLUNKETT**

**CASSIE J. WENDT**

DEPUTY STATE'S ATTORNEY  
[BCSA.DEPUTY@RUSHMORE.COM](mailto:BCSA.DEPUTY@RUSHMORE.COM)

849 Fifth Avenue  
Belle Fourche, South Dakota 57717  
Tel. (605)-892-3337  
Fax (605)-892-6768  
[plunkett@rushmore.com](mailto:plunkett@rushmore.com)

December, 1, 2015

### **SOUTH DAKOTA OPEN MEETINGS COMMISSION**

South Dakota Attorney General's Office  
Office of the Attorney General  
1302 E Hwy 14  
Suite 1  
Pierre SD 57501-8501

### **RE: COMPLAINT AND INVESTIGATIVE MATERIALS FOR OPEN MEETING COMMISSION**

Dear Members of the South Dakota Open Meetings Commission:

Holiday Greetings from Butte County! Pursuant to SDCL 1-25-(3), I hereby transfer investigative materials to the South Dakota Open Meetings Commission for review of a complaint that was formerly lodged with the Butte County State's Attorney's Office against the Newell School Board. The alleged incident occurred nearly one year ago. To be clear, however, the delay in reporting was through no fault of the complainant, Neal Rogers. Rather, my office experienced time delays during the investigatory stage and I was on medical leave for three months. Please accept my apology for the delayed report.

The documents enclosed herein have been prepared to provide the board with an overview of the complaint lodged by concerned citizen, Neal Rogers against the Newell School Board. By way of information, the complaint was verified by previous Newell School Board Member, Jennifer Srystka. Ms. Srystka clearly expressed her concern with the actions of the Newell School Board and reports that open meeting laws were violated by the Newell School Board during executive sessions – citing this as her reason for resigning.

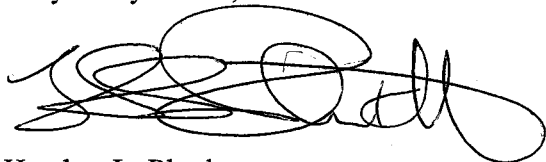
Having reviewed the enclosed documentation and based on a telephone conversation with Ms. Srystka, my review of state law and through numerous conversations with Mr. Rogers, it is my professional legal opinion that Newell School Board violated the spirit of the South Dakota open meeting laws specifically, SDCL 1-25-2(1). It appears the Newell Superintendent, Hovland,

negatively influenced the transparency and objectivity of the Newell School Board, specifically regarding the complaints lodged by the Rogers family against some of the Newell School Coaches in December 2014. Specifically, the executive session process was abused by Mr. Hovland and/or the Newell School Board on or about December 15, 2014. It was further alleged by Ms. Szystka that executive session violations occurred frequently, specifically regarding discussions about Mr. Rogers. She also expressed concern that the violations of the South Dakota Open Meeting Law resulted in the unlawful and biased lobbying of the School Board. It is further my opinion based on the information obtained during my investigation that Superintendent, Hovland, inappropriately dictates meeting agendas by adding information to School Board Agendas that is not provided to the public.

The intent of the individuals involved is irrelevant. Objectively speaking, the harm caused in a situation like this is a harm done to the public by holding discussions on matters of public concern behind closed doors and prevents the public from commenting and receiving adequate opportunity to be heard; thereby, potentially affecting and unlawfully influencing the otherwise objective and public representation of the School Board by its elected members.

The Newell School Board should take caution in the future. Further, I believe public input at School Board meetings is not only mandatory it holds the government accountable to the will of the people. Thank you for independently reviewing the complaint of Mr. Rogers. I trust that the Open Meetings Commission will proceed in a manner that is fair and just. Please advise if I can be of further assistance.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'Heather L. Plunkett', with a large, stylized flourish at the end.

Heather L. Plunkett

Butte County State's Attorney

April 30, 2015

To: Heather Plunkett

From: Neal Rogers

RE: Newell School Board Violating Open Meeting Act

The Newell School Board is violating the Open Meeting Act. They go into Executive Session and give the reason as Personnel.

A year ago, my wife and I turned in 6 teachers and the Superintendent to the South Dakota Teachers Practices and Standards Commission. The teachers were made aware of the complaints the last of May 2014. We have been keenly aware of the agenda and minutes of the School Board and didn't feel the Newell School Board was handling the SDTPSC complaints in a professional unbiased position. In December, Jennifer Srstka resigned from the Newell School Board. In January I felt I needed to talk to her, I asked if they were talking about Neal Rogers at the School Board Meetings. She replied 'Since May they have been talking about Neal Rogers at the School Board Meetings in Executive Session'.

Jennifer Srstka resigned because she felt the Newell School Board was handling important issues in a very questionable manner. She met with John Stielow and explained all the details and actions of the Newell School Board. John Stielow determined the Newell School Board should be turned in on violations of the Open Meeting Act. Jennifer has documents to show the School Board and Superintendent's questionable actions with emails, agendas and meeting packets.  
Investigation

I would suggest meeting with Jennifer Srstka. Then, I would like to meet to determine a plan to execute further findings, if other School Board members need to be interviewed.

If there are questions or you would like further explanations of these matters please let me know. I can be reached at:

Neal Rogers  
207 Second Street  
PO Box 74  
Newell, SD 57760  
605-456-3438

Jennifer Srstka  
456-1799

x Neal Rogers Date 4-30-15

STATE OF SOUTH DAKOTA     )  
  ) SS  
COUNTY OF BUTTE            )

IN CIRCUIT COURT  
  
FOURTH JUDICIAL CIRCUIT

IN THE MATTER OF THE BUTTE     )  
  )  
COUNTY GRAND JURY            )

**SUBPOENA DUCES TECUM**

THE STATE OF SOUTH DAKOTA SENDS GREETINGS TO:

Paul Ersland  
Director of K-12 Data Center  
(605) 256-5292  
Paul.ersland@k12.sd.us

You are hereby required to produce the following:

**Any and all Electronic Email Communication and attachments between Newell Superintendent, Joel Hovland, and the Newell School Board Members, either individually or as a group for the dates of July 1, 2014, through July 6, 2015; Said school board members are as follows:**

**Don Alexander**

**Kim Jackson**

**Jennifer Srstka (No longer on the school board – resigned approx. Dec. 2014)**

**Leann Wells**

**Matt Rolph**

**Jeremiah Weeldreyer**

**Julie Vanderboom**

**Tyler Trohkimoinen**

**Todd Youngberg**

**This subpoena includes, but is not limited to, information or documentation regarding modified agendas that were given to school board members prior to meetings that contain any and all additional notes or points of discussion including topics to be addressed in executive session.**

Please forward the requested information to Heather L. Plunkett, Butte County State's Attorney, 849 5<sup>th</sup> Ave., Belle Fourche, SD 57717; or via facsimile at 605-892-6768; or via email to plunkett@rushmore.com. This information should be provided no later than 5 o'clock p.m., July 13, 2015.

Dated this 7<sup>th</sup> day of July, 2015, at Belle Fourche, South Dakota.



Heather L. Plunkett  
Butte County State's Attorney  
849 Fifth Avenue  
Belle Fourche, SD 57717-1728

STATE OF SOUTH DAKOTA     )  
  ) SS  
COUNTY OF BUTTE            )

IN CIRCUIT COURT  
  
FOURTH JUDICIAL CIRCUIT

IN THE MATTER OF THE BUTTE     )  
  )  
COUNTY GRAND JURY            )

**SUBPOENA DUCES TECUM**

---

THE STATE OF SOUTH DAKOTA SENDS GREETINGS TO:

Paul Ersland  
Director of K-12 Data Center  
(605) 256-5292  
Paul.ersland@k12.sd.us

You are hereby required to produce the following:

**Any and all Electronic Communication and attachments between Newell Superintendent, Joel Hovland, and the Newell School Board Members, either individually or as a group for the dates of July 1, 2014, through July 8, 2015; Said school board members are as follows:**

**Don Alexander**  
**Kimberly Jackson**  
**Jennifer Srstka (No longer on the school board – resigned approx. Dec. 2014)**  
**Leann Wells**  
**Todd Williamson**  
**Matthew Rolph**  
**Jeremiah Weeldreyer**  
**Julie Vanderboom**

**This subpoena includes, but is not limited to, information or documentation regarding modified agendas that were given to school board members prior to meetings that contain any and all additional notes or points of discussion including topics to be addressed in executive session.**

Please forward the requested information to Heather L. Plunkett, Butte County State's Attorney, 849 5<sup>th</sup> Ave., Belle Fourche, SD 57717; or via facsimile at 605-892-6768; or via email to plunkett@rushmore.com. This information should be provided no later than 5 o'clock p.m., July 13, 2015.

Dated this 7<sup>th</sup> day of July, 2015, at Belle Fourche, South Dakota.



Heather L. Plunkett  
Butte County State's Attorney  
849 Fifth Avenue  
Belle Fourche, SD 57717-1728

**Eichstadt, Craig**

---

**From:** Hovland, Joel  
**Sent:** Friday, December 12, 2014 10:52 AM  
**To:** Jennifer Srstka  
**Subject:** FW: board agenda with notes  
**Attachments:** December 2014 Board Meeting with notes.doc

Don told me you didn't get this earlier. You are on the group email that I use. Click on the attachment.

**From:** Hovland, Joel  
**Sent:** Wednesday, December 10, 2014 9:27 AM  
**To:** don Alexander; Jennifer Srstka; Jeremiah Weeldryer; Joel Hovland; Julie VanDerBoom; Kim Jackson; Todd Youngberg  
**Subject:** board agenda with notes

The attachment contains some quick notes on the upcoming board meeting...  
Coaches hearing yesterday took the whole day and the Ethics Committee postponed a decision until their next month's meeting... That is just wrong!!!

Joel B Hovland  
Superintendent/HS Principal  
Newell School  
719 588-6789

**CONFIDENTIALITY NOTICE:** This e-mail communication, including any attachments, is intended solely for the use of the designated recipient named above and may contain confidential and privileged information. If you are not the intended recipient (or authorized to receive for the recipient), you are hereby notified that any review, disclosure, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please contact the sender by reply e-mail and destroy all copies of this communication and any attachments.

## Eichstadt, Craig

---

**From:** Hovland, Joel  
**Sent:** Friday, December 12, 2014 10:27 AM  
**To:** don Alexander  
**Subject:** fwd; jennifer concerns

Don,  
The below thread is just a heads up. Start at the bottom and scroll up to follow the exchange.  
Joel

**From:** Hovland, Joel  
**Sent:** Friday, December 12, 2014 9:25 AM  
**To:** Jennifer Srstka  
**Subject:** FW: board agenda with notes

The Board can listen to concerns of coaches in executive session because this is not a topic for open session. The board will take no official stance regardless of what is discussed.

**From:** Jennifer Srstka [<mailto:jsrstka@sdplains.com>]  
**Sent:** Wednesday, December 10, 2014 8:42 PM  
**To:** Hovland, Joel  
**Subject:** Re: board agenda with notes

My understanding was that the board was not supposed to be involved in this legal matter at this time. So, I guess my question was, would our lawyer say that it is advisable to have this meeting with them?

On Dec 10, 2014, at 3:51 PM, Hovland, Joel wrote:

Our lawyer is not in on this at all. He has never been in on the allegations against any of the teachers.

**From:** Jennifer Srstka [<mailto:jsrstka@sdplains.com>]  
**Sent:** Wednesday, December 10, 2014 3:28 PM  
**To:** Hovland, Joel  
**Subject:** Re: board agenda with notes

Has our lawyer consented to this executive session with the coaches regarding this particular issue? Will he be in attendance?

--Jennifer

On Dec 10, 2014, at 9:26 AM, Hovland, Joel wrote:

The attachment contains some quick notes on the upcoming board meeting...  
Coaches hearing yesterday took the whole day and the Ethics Committee  
postponed a decision until their next month's meeting... That is just wrong!!!

Joel B Hovland  
Superintendent/HS Principal  
Newell School  
719 588-6789

**CONFIDENTIALITY NOTICE:** This e-mail communication, including any attachments, is intended solely for the use of the designated recipient named above and may contain confidential and privileged information. If you are not the intended recipient (or authorized to receive for the recipient), you are hereby notified that any review, disclosure, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please contact the sender by reply e-mail and destroy all copies of this communication and any attachments.

<December 2014 Board Meeting with notes.doc>



Agenda Provided to Public

**NEWELL SCHOOL DISTRICT 09-2  
REGULAR SCHOOL BOARD MEETING**

**DECEMBER 15, 2014**

**6:30 P.M. -Multi-Purpose Room**

---

***Mission Statement:*** *The Newell School District will use all available resources to engage all students in the active pursuit of knowledge to help them reach their full potential now and in the future.*

- I. Call to Order
  - A. Pledge of Allegiance
  - B. Moment of Silence
- II. Presentations to Board
  - A. SADD Students
  - B. MS Newspaper, Ms. Story/Students
- III. Open Forum
- IV. Agenda
  - A. Additions/Changes
  - B. Approval
- V. Consent Agenda
  - A. Minutes
    - (i) Regular Meeting – November 10, 2014
  - B. Payment of Bills
  - C. Financial Report
- VI. Discussion
  - A. Newell School District Foundation (recommend/appoint new committee members)
  - B. Phone system upgrade
  - C. 2015-2016 Calendar (1<sup>st</sup> Draft)
  - D. Legislative Update
- VII. Old Business
  - A.
- VIII. New Business
  - A. Change min. wage. \$7.25 to \$8.50 Effective Jan 1<sup>st</sup>.

IX. Reports

- A. Activity Director
- B. Custodial Director
- C. Special Education Director
- D. Transportation and Maintenance Director
- E. Food Service Director
- F. Technology Coordinator
- G. . Pre-K- MS Principal
  
- H. Superintendent/HS Principal

X. Executive Session (meeting with coaches)

XI. Adjournment

**CONFIDENTIALITY NOTICE:** This e-mail communication, including any attachments, is intended solely for the use of the designated recipient named above and may contain confidential and privileged information. If you are not the intended recipient (or authorized to receive for the recipient), you are hereby notified that any review, disclosure, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please contact the sender by reply e-mail and destroy all copies of this communication and any attachments.

Agenda provided to school board with notes from Superintendent Holland.

**NEWELL SCHOOL DISTRICT 09-2**  
**REGULAR SCHOOL BOARD MEETING**

DECEMBER 15, 2014

6:30 P.M. –Multi-Purpose Room

---

***Mission Statement:** The Newell School District will use all available resources to engage all students in the active pursuit of knowledge to help them reach their full potential now and in the future.*

**I. Call to Order**

- A. Pledge of Allegiance
- B. Moment of Silence

**II. Presentations to Board**

- A. SADD Students
- B. MS Newspaper, Ms. Story/Students have published a couple times this year. Students interview people, write articles and arrange the publication. Finished product is distributed to staff and students as well as posted on the wall in the MS.

**III. Open Forum**

Mr. Ollila has people convinced that we are trying to kill the FFA program. Not a thread of truth to this. It is not as focused as it was when he left but is still very strong. Almost half of our HS kids are enrolled in FFA. This is way beyond the state average. 17% of the state's work force is ag related and having 45% of our HS kids in FFA is great. I have spoken with Mrs. Severson about ways to better educate our MS kids re: FFA and also possibly having MS kids join the program for next year. FFA bylaws say 8<sup>th</sup> graders can do so. National FFA website even has curriculum for MS kids.

**IV. Agenda**

- A. Additions/Changes
- B. Approval

**V. Consent Agenda**

- A. Minutes
  - (i) Regular Meeting – November 10, 2014
- B. Payment of Bills
- C. Financial Report

**VI. Discussion**

- A. Newell School District Foundation (recommend/appoint new committee members) We currently have \$58K in this account and it has not been touched in the last 4-5 years. All members

of the governing board need to be replaced. I was told it was all earmarked for library use but close examination of the documentation on hand does not attest to that.

B. Phone system upgrade The plan is to have new phones installed in all rooms after school on the 15<sup>th</sup> and a working system in all rooms w/in a day or two of that date. There will be no interference with school in session.

C. 2015-2016 Calendar (1<sup>st</sup> Draft)

D. Legislative Update There are several things on the table with our elected officials. South Dakota has a teacher shortage. There are a projected 1200+ teachers retiring next year with only just over 800 graduating from our colleges with teaching degrees. Many of them will go to any of the neighboring states where they can make more money. Some of the plans on the table... **Per Student Allowance (PSA)** is by law set at 1.5% per year increase and the current plan is to do 2%. Increase is good but, this does not even keep up with inflation so.... **Teacher Salary Enhancement Plan (TSEP)** is another measure with a 1% summer sales tax being its flagship. There is a substantial amount of dollars here if it is indeed given to schools and not misrouted like the gambling funds many years ago. **Critical area incentive pay** is an attempt to offer hiring bonuses for teachers in the Science and Math fields. State funded College scholarships for students going into the above areas are also out there.

I. Old Business

A.

#### VIII. New Business

A. Change min. wage. \$7.25 to \$8:50 Effective Jan 1<sup>st</sup>. We have several PARAs that are under this amount. Discussion would be how we ensure that new hires don't now make more or the same amount as seasoned employees. Do we bump everyone a certain percentage? The min. wage jump is 8.5% Fair could be very costly...

#### IX. Reports

A. Activity Director

B. Custodial Director

C. Special Education Director

D. Transportation and Maintenance Director

E. Food Service Director

F. Technology Coordinator

G. . Pre-K- MS Principal

H. Superintendent/HS Principal

X. Executive Session (meeting with coaches) Coaches would like to discuss the general feeling of being vulnerable to the public whim. I was at the hearing for the "marshmallow" incident

5

yesterday. When I left at 3:00 they had not finished with the witnesses yet. Coaches know that Mrs. Rogers has been trying to get the local newspapers involved now. Moral among all our coaches is very low.

XI. Adjournment

**Eichstadt, Craig**

---

**From:** Hovland, Joel  
**Sent:** Tuesday, January 13, 2015 1:16 PM  
**To:** don Alexander; Kim Jackson; Julie VanDerBoom; LeAnne Wells; Todd Youngberg; Jeremiah Weeldryer; 'Danette Rolph'  
**Subject:** Board agenda with notes.  
**Attachments:** January 2015 Board Meeting with comments.doc

Good afternoon,  
You should be getting your board packets in the mail soon. The Attachment is just a few notes ahead of time. If you have questions, please give me a call.

Thanks,  
Joel

Joel B Hovland  
Superintendent/HS Principal  
Newell School  
719 588-6789

**CONFIDENTIALITY NOTICE:** This e-mail communication, including any attachments, is intended solely for the use of the designated recipient named above and may contain confidential and privileged information. If you are not the intended recipient (or authorized to receive for the recipient), you are hereby notified that any review, disclosure, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please contact the sender by reply e-mail and destroy all copies of this communication and any attachments.

# Agenda to Public

## NEWELL SCHOOL DISTRICT 09-2 REGULAR SCHOOL BOARD MEETING

JANUARY 19, 2015

6:30 P.M. -EL/MS Multi-Purpose Room

**5:30 P.M. Annual Audit Report; Superintendent's office**

---

***Mission Statement:** The Newell School District will use all available resources to engage all students in the active pursuit of knowledge to help them reach their full potential now and in the future.*

- I. Call to Order
  - A. Pledge of Allegiance
  - B. Moment of Silence
  - C. Install new board member
- II. Presentations to Board
- III. Open Forum
- IV. Agenda
  - A. Additions/Changes
  - B. Approval
- V. Consent Agenda
  - A. Minutes
    - (i) Regular Meeting – December 15, 2013
  - B. Payment of Bills
  - C. Financial Report
- VI. Discussion
  - A. 2015-2016 School Calendar
  - B. Immunization policy
- VII. Old Business
  - A. Appoint committee members for Newell School Dist. Foundation
- VIII. New Business
  - A. Approve resignation
  - B. Approve employment contract
  - C. Appoint Legislative Action Network (LAN) Member



- D. Set Board Election Date
- E. ASBSD collective bargaining seminar attendance
- F. Surplus obsolete shop equipment

IX. Reports

- A. Activity Director
- B. Special Education Director
- C. Transportation and Maintenance Director
- D. Food Service Director
- E. Technology Director
- F. Pre-K/MS Principal
- G. Superintendent/K-12 Principal

X. Executive Session, Personnel issues

XI. Adjournment

# Agenda with notes

## NEWELL SCHOOL DISTRICT 09-2 REGULAR SCHOOL BOARD MEETING

JANUARY 19, 2015

6:30 P.M. –EL/MS Multi-Purpose Room

**5:30 P.M. Annual Audit Report; Superintendent's office** If we need to, we could do this in the lunchroom.

---

**Mission Statement:** *The Newell School District will use all available resources to engage all students in the active pursuit of knowledge to help them reach their full potential now and in the future.*

- I. Call to Order
  - A. Pledge of Allegiance
  - B. Moment of Silence
  - C. Install new board member Swear in Mr. Rolf
- II. Presentations to Board Mrs. Reedy, Art program
- III. Open Forum
- IV. Agenda
  - A. Additions/Changes
  - B. Approval
- V. Consent Agenda
  - A. Minutes
    - (i) Regular Meeting – December 15, 2013
  - B. Payment of Bills
  - C. Financial Report
- VI. Discussion
  - A. 2015-2016 School Calendar This is not due until June and does not require multiple readings for approval but is probably a good idea to let people see what is proposed
  - B. Immunization policy We currently do not have a policy. Mrs. Wilbur notified parents of kids with outdated immunization records. We had one parent refuse to comply... See the news handout from you packets. Do we need to create a policy?
- VII. Old Business

A. Appoint committee members for Newell School Dist. Foundation There are 5 members. Each year the school board appoints 2 employees from the school. The other 3 members are appointed by the Foundation board to serve 1,2,and 3 year terms. Since there is no Foundation membership currently, the School board will appoint all 5 positions now. I asked for recommendations from several people. I made some calls. Interested folks with kids in school are as follows. Heather Carri, Dannelle Muchler and Sonia Heil.

#### VIII. New Business

A. Approve resignation Carla Wolfer, effective on the 15<sup>th</sup> of Jan. (she is using her unused leave time now)

B. Approve employment contract Mike Robinson has replaced Carla Wolfer

C. Appoint Legislative Action Network (LAN) Member see the handout. One member from each board is appointed yearly

D. Set Board Election Date (three positions open) see the handout

E. ASBSD collective bargaining seminar attendance see the handout. Class in Rapid on Jan 24<sup>th</sup>. Saturday, Be good to have one or two members attend if possible.

F. Surplus obsolete shop equipment We have two broken compressors (Ingersol-Rand and ROI-Air) that Mr. King says we can get a few dollars for. He checked on repairing them but it is cost prohibitive. We have two almost new compressors in the shop now. These broken ones are just taking up space.

#### IX. Reports

A. Activity Director

B. Special Education Director

C. Transportation and Maintenance Director

D. Food Service Director

E. Technology Director

F. Pre-K/MS Principal

G. Superintendent/K-12 Principal

#### X. Executive Session, Personnel issues

#### XI. Adjournment

**Eichstadt, Craig**

---

**From:** Hovland, Joel  
**Sent:** Tuesday, February 10, 2015 12:04 PM  
**To:** Newell School Board; don Alexander; Kim Jackson; 'mattrolf@yahoo.com'; Julie VanDerBoom; LeAnne Wells; Todd Youngberg; Jeremiah Weeldryer  
**Subject:** Board agenda  
**Attachments:** February 2015 Board Meeting with super notes.doc; Vehicle status form 2.docx; Vehicle status form 3.docx; Vehicle status form1.docx; Maintainance-transportaton worker job description.docx

Attached please find the board agenda with my notes, job description for Maint/Xport Director and also FYI, the list of all our rolling stock and info on it.  
If you have questions, please stop by or call me...

Joel B Hovland  
Superintendent/HS Principal  
Newell School  
719 588-6789

**CONFIDENTIALITY NOTICE:** This e-mail communication, including any attachments, is intended solely for the use of the designated recipient named above and may contain confidential and privileged information. If you are not the intended recipient (or authorized to receive for the recipient), you are hereby notified that any review, disclosure, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please contact the sender by reply e-mail and destroy all copies of this communication and any attachments.

# Agenda with notes

## NEWELL SCHOOL DISTRICT 09-2 REGULAR SCHOOL BOARD MEETING

FEBRUARY 16, 2015

6:30 P.M. –Multi-Purpose Room

---

**Mission Statement:** *The Newell School District will use all available resources to engage all students in the active pursuit of knowledge to help them reach their full potential now and in the future.*

- I. Call to Order
  - A. Pledge of Allegiance
  - B. Moment of Silence
- II. Presentations to Board – FFA Senior Trip presentation
- III. Open Forum
- IV. Agenda
  - A. Additions/Changes
  - B. Approval
- V. Consent Agenda
  - A. Minutes
    - (i) Regular Meeting – January 19, 2015
  - B. Payment of Bills
  - C. Financial Report
    - 1. School and Public Lands Apportionment Each year the school gets a percentage of the revenue from oil/gas/grazing leases that the state holds. This figure has increased this year by \$68.16 per student in school on count date. We were at 331 students so an extra \$22,560.96 comes our way. The projection for next year is down from this due to low oil prices.
- VI. Discussion
  - A. Sale of surplus compressor Mr. King sold one of the compressors for \$75.00. Still have the other one.
  - B. CARE program finances Sally has a brief on the finances. We have one student yet to bring back from Black Hills Center. This costs us about \$30K each year. The legal side of this one is tricky. Blake ok'ed this placement several years ago and really shouldn't have. President is set and it is hard to get back on track. We can provide all the services here now...
- VII. Old Business
  - A.

## VIII. New Business

A. Approve contract for Transportation/Maintenance Director Todd Komes has accepted the position. He will be paid \$30,000 on a salaried basis. I have written a detailed job description for him to follow. I have attached that to this email. If you have input on it, let me know.

B. Approve contract for FFA/AG assistant Sabrina Harmon backed out of this job. Dave Winkler has offered to take it on. He has a laundry list of educational credentials and is a serious organizer. He subs for us occasionally and gets along well with the kids and does a good job of implementing teacher lesson plans. Jodi is eager to work with him.

## IX. Reports

- A. Activity Director
- B. Business Manager
- C. Special Education Director
- D. Transportation and Maintenance Director
- E. Food Service Director
- F. Technology Director
- G. Nurse/College-Careers Councilor
- G. PK-MS Principal
- H. Superintendent/K-12 Principal

- X. Executive Session – Personnel Bus drivers. Roger Monson has nothing but bad reports from staff, parents and kids. Harlan defends him completely. I spoke to him about his attitude and driving habits several months ago. Vern McCarthy is just recovering from a severe head injury and we don't know when-if he will be clear to drive for us again.

I have a meeting with Lester Nies, Emma Rogers and Emma's Lawyer on Thursday afternoon to discuss Emma's complaints against staff which she dropped.

The rumor has it that we will be needing to hire a new Cook. Mrs. Kellog is planning a move to Rapid City... just a heads up...

## XI. Adjournment

# Public Agenda

## NEWELL SCHOOL DISTRICT 09-2 REGULAR SCHOOL BOARD MEETING

FEBRUARY 16, 2015

6:30 P.M. –Multi-Purpose Room

---

**Mission Statement:** *The Newell School District will use all available resources to engage all students in the active pursuit of knowledge to help them reach their full potential now and in the future.*

- I. Call to Order
  - A. Pledge of Allegiance
  - B. Moment of Silence
- II. Presentations to Board – FFA Senior Trip presentation
- III. Open Forum
- IV. Agenda
  - A. Additions/Changes
  - B. Approval
- V. Consent Agenda
  - A. Minutes
    - (i) Regular Meeting – January 19, 2015
  - B. Payment of Bills
  - C. Financial Report
    - 1. School and Public Lands Apportionment
- VI. Discussion
  - A. Sale of surplus compressor
  - B. CARE program finances
- VII. Old Business
  - A.
- VIII. New Business
  - A. Approve contract for Transportation/Maintenance Director
  - B. Approve contract for FFA/AG assistant
- IX. Reports
  - A. Activity Director
  - B. Business Manager
  - C. Special Education Director

- D. Transportation and Maintenance Director
- E. Food Service Director
- F. Technology Director
- G. Nurse/College-Careers Councilor
- G. PK-MS Principal
- H. Superintendent/K-12 Principal

X. Executive Session - Personnel

XI. Adjournment



**Eichstadt, Craig**

---

**From:** Hovland, Joel  
**Sent:** Wednesday, March 11, 2015 9:28 PM  
**To:** Newell School Board  
**Subject:** board agenda with notes  
**Attachments:** March 2015 Board Meeting with notes.doc; Newell School 3-Year PSA Proposal 2-26-15.pdf; School improvement plan.docx

Joel B Hovland  
Superintendent/HS Principal  
Newell School  
719 588-6789

**CONFIDENTIALITY NOTICE:** This e-mail communication, including any attachments, is intended solely for the use of the designated recipient named above and may contain confidential and privileged information. If you are not the intended recipient (or authorized to receive for the recipient), you are hereby notified that any review, disclosure, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please contact the sender by reply e-mail and destroy all copies of this communication and any attachments.

# Agenda with notes

## NEWELL SCHOOL DISTRICT 09-2 REGULAR SCHOOL BOARD MEETING

MARCH 17, 2014

6:30 P.M. –Multipurpose Room

---

**Mission Statement:** *The Newell School District will use all available resources to engage all students in the active pursuit of knowledge to help them reach their full potential now and in the future.*

I. Call to Order

- A. Pledge of Allegiance
- B. Moment of Silence

II. Presentations to Board

- A. Hometown Hero's (Millie & Tyus)

III. Open Forum Danette Rolf has requested to speak on her concerns over vehicle safety.

#1 Earlier this year, her kids were taken home from school by Harlan in a suburban that had more than the proscribed number of students on board. It was a judgment call by Harlan to expeditiously get kids home. We were in violation of the seat belt mandate. I spoke to Harlan and he has not repeated the incident.

#2 Last Friday, the MS BB team had a scheduled meet in Lead/Deadwood. The coaches scheduled a suburban to transport the 8 kids involved. At the last minute the number of students changed and 11 showed up. TJ Steele was taking the kids because both coaches were involved in staff development elsewhere. TJ called me at a class I was taking and asked for advice. I was unable to locate another school employee to drive another vehicle. I told him to ensure that the kids were not sitting on each other's laps and drive carefully. TJ has a CDL and is an experienced driver. It was Friday morning with very little traffic and dry, paved roads and unlimited visibility. The Suburban is a solid, dependable vehicle in excellent condition. This was not a long drive and I was aware that the return trip would only have a half dozen kids on it. The options were to arbitrarily send some kids home (parents had dropped them and left) or to cancel the entire event.

IV. Agenda

- A. Additions/Changes
- B. Approval

V. Consent Agenda

A. Minutes

(i) Regular Meeting – February 16, 2015

B. Payment of Bills

C. Financial Report

VI. Discussion

A. Showers in Austin The downstairs showers have plenty of hot water, upstairs, not so much... I have a couple of proposals from The Plumber Inc in Bell.

B. Johnson controls maint. Proposal This is a revised proposal from the end of the summer. It is fully half of what was first offered. See the attachment)

C. Dept of Ed Desk audit results Every five years we undergo this audit. It went well with one discrepancy. I will give further details at the meeting.

VII. Old Business

A.

B.

VIII. New Business

A. Approve School Improvement Plan (See the attachment.)

B. Approve Golf and Track Rules (Sent in your packets)

C. Resignations Sandy Hammil has resigned from the custodial crew. We have an add in the paper and on our website.

IX. Reports

A. Technology Coordinator

B. Activity Director

C. Nurse/College-Careers Advisor

D. Special Education Director

E. Transportation and Maintenance Director

F. Food Service Director

G. Pre-K/Middle School Principal

H. Superintendent/High School Principal

X. Executive Session – Negotiations/administrator contracts news from the legislature is not very promising. Superintendent's meeting on Thursday will give me more info. I will keep you posted.

XI. Adjournment

# Public Agenda

## NEWELL SCHOOL DISTRICT 09-2 REGULAR SCHOOL BOARD MEETING

MARCH 17, 2014

6:30 P.M. –Multipurpose Room

---

*Mission Statement: The Newell School District will use all available resources to engage all students in the active pursuit of knowledge to help them reach their full potential now and in the future.*

- I. Call to Order
  - A. Pledge of Allegiance
  - B. Moment of Silence
- II. Presentations to Board
  - A. Hometown Heros (Millie & Tyus)
- III. Open Forum
- IV. Agenda
  - A. Additions/Changes
  - B. Approval
- V. Consent Agenda
  - A. Minutes
    - (i) Regular Meeting – February 16, 2015
  - B. Payment of Bills
  - C. Financial Report
- VI. Discussion
  - A. Showers in Austin
  - B. Johnson controls maint. Proposal
  - C. Dept of Ed Desk audit results
- VII. Old Business
  - A.
  - B.
- VIII. New Business
  - A. Approve School Improvement Plan

- B. Approve Golf and Track Rules
- C. Resignations

IX. Reports

- A. Technology Coordinator
- B. Activity Director
- C. Nurse/College-Careers Advisor
- D. Special Education Director
- E. Transportation and Maintenance Director
- F. Food Service Director
- G. Pre-K/Middle School Principal
- H. Superintendent/High School Principal

X. Executive Session – Negotiations/administrator contracts

XI. Adjournment

**Eichstadt, Craig**

---

**From:** Hovland, Joel  
**Sent:** Wednesday, April 15, 2015 7:41 PM  
**To:** Newell School Board; don Alexander; Julie VanDerBoom; Kim Jackson; Rolph, Matt; Todd Youngberg; Jeremiah Weeldryer; Wells, Leanne  
**Subject:** RE: board agenda w/ notes  
**Attachments:** April 2015 Board Meeting w notes.doc

Please see the attachment.  
Joel B Hovland  
Superintendent/HS Principal  
Newell School  
719 588-6789

**CONFIDENTIALITY NOTICE:** This e-mail communication, including any attachments, is intended solely for the use of the designated recipient named above and may contain confidential and privileged information. If you are not the intended recipient (or authorized to receive for the recipient), you are hereby notified that any review, disclosure, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please contact the sender by reply e-mail and destroy all copies of this communication and any attachments.

# Agenda with notes

## NEWELL SCHOOL DISTRICT 09-2 REGULAR SCHOOL BOARD MEETING

APRIL 20, 2015

6:30 P.M. Multi-purpose Room

---

**Mission Statement:** *The Newell School District will use all available resources to engage all students in the active pursuit of knowledge to help them reach their full potential now and in the future.*

- I. Call to Order
  - A. Pledge of Allegiance
  - B. Moment of Silence
- II. Presentations to Board
  - A. Mrs. Harmon update
  - B. Elementary Book Club
- III. Open Forum)
- IV. Agenda
  - A. Additions/Changes
  - B. Approval
- V. Consent Agenda
  - A. Minutes
    - (ii) Regular Board Meeting – March 17, 2015
  - B. Payment of Bills
  - C. Financial Report
- VI. Discussion
  - A. Summer School Plan -Last summer we had two teachers each day to help with students working on the ACELLUS credit recovery program. 16 students were scheduled for attendance, only two or three actually showed up all summer. I cancelled that program at the beginning of this year. It was not a viable program nor was it cost effective.  
-I am still waiting for numbers for this summer. The plan would be a credit recovery through individual/independent study, guided by a staff teacher.

-We did have a very effective summer program for the SPED kids which is basically 12 days of individualized instruction spread over the summer. Attendance will be between 10 and 20 students depending on needs.

B. Thank you to Newell Set Me Free Fitness Center They donated two punching bags to the school for our pe program

C. 15 passenger bus acquisition -\$14,000, It should be here this Friday and we can take a look at it whenever you would like. The transmission had issues when it was on it's way here so a brand new one is being installed today. Good deal for us.

D. School sports participation count -this is a breakdown of how many kids participated in each sport. It is in your mailed packet

## VII. Old Business

A.

## VIII. New Business

A. Approve teacher contracts -the list is in the mailed packet. I do not have all the contracts returned as of yet. They have to be back by cob on the 16th.

B. Canvas Ballots from 15<sup>th</sup> - Sally has all the paperwork for signatures and perusal...

C. Approve budget supplement, transfer of funds from \*Capital Outlay reserves to Capital Outlay pupil transportation -This is the \$14,000 to pay for the bus

D. Negotiations brief

E. SDHSAA Resolution -Just a statement that we want to still be a member of the South Dakota High School Athletic Association

F. Home school applications -I have two elementary kids who live here but do not attend.

\*G. Approve lunch program worker contracts -Melissa MaHaffee head cook, Dona Knutsen assistant cook.

\*additions/changes to the published agenda

## V. Reports

A. Technology Coordinator

B. Activity Director

C. Student Health/College-Careers Advisor



- D. Special Education Director
- E. Transportation and Maintenance Director
- F. Food Service Director
- G. Pre-K/Middle School Principal
- H. Superintendent/High School Principal

VI. Executive Session - Personnel

VII. Adjournment

# Public Agenda

## NEWELL SCHOOL DISTRICT 09-2 REGULAR SCHOOL BOARD MEETING

APRIL 20, 2015

6:30 P.M. Multi-purpose Room

---

**Mission Statement:** *The Newell School District will use all available resources to engage all students in the active pursuit of knowledge to help them reach their full potential now and in the future.*

- I. Call to Order
  - A. Pledge of Allegiance
  - B. Moment of Silence
- II. Presentations to Board
  - A. Mrs. Harmon update
  - B. Elementary Book Club
- III. Open Forum
- IV. Agenda
  - A. Additions/Changes
  - B. Approval
- V. Consent Agenda
  - A. Minutes
    - (ii) Regular Board Meeting – March 17, 2015
  - B. Payment of Bills
  - C. Financial Report
- VI. Discussion
  - A. Summer School Plan
  - B. Thank you to Newell Set Me Free Fitness Center
  - C. 15 passenger bus acquisition
  - D. School sports participation count
- VII. Old Business
  - A.

VIII. New Business

- A. Approve teacher contracts
- B. Canvas Ballots from 15<sup>th</sup>
- C. Approve budget supplement, transfer of funds from Capital to General Fund
- D. Negotiations brief
- E. SDHSAA Resolution
- F. Home school applications

V. Reports

- A. Technology Coordinator
- B. Activity Director
- C. Student Health/College-Careers Advisor
- D. Special Education Director
- E. Transportation and Maintenance Director
- F. Food Service Director
- G. Pre-K/Middle School Principal
- H. Superintendent/High School Principal

VI. Executive Session - Personnel

VII. Adjournment

Sister


Generally -

Public School  
taxpayer

Executive

\* Need responses & complaints  
against teachers

Telling us - poisoning the board

taking sides - 

Lobbying to board to  
protect teachers -



Resigned a <sup>but</sup> executive

open to public criticism

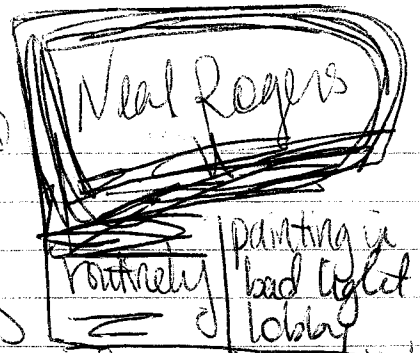
Heather Plunkett notes  
from conversation  
with Jennifer Sostka

5.26.15

Heather Plunkett

12.1.15

Lobby Board



next meeting

hiring memberships to  
give liability insurance

even though union  
didn't request

listened to concerns

negotiated around  
the union

allowing

personnel - anything

2-3 rd time -

don't think we are  
supposed to be  
talking

Stay silent on the issue  
letters of support for  
Teachers

whole campaign  
not for teachers against

Neil Rogers

~~Neil Rogers~~

Neil Rogers

Neil  
Rogers

Neil  
Rogers-



STATE OF SOUTH DAKOTA



**OFFICE OF ATTORNEY GENERAL**

1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501

Phone (605) 773-3215

Fax (605) 773-4106

TTY (605) 773-6585

<http://atg.sd.gov/>

**MARTY J. JACKLEY**  
ATTORNEY GENERAL

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

January 5, 2016

Neal Rogers  
207 Second Street  
P.O. Box 74  
Newell, SD 57760

Re: Open Meeting Complaint 2015-04, Newell School Board – Butte County

Mr. Rogers,

This letter is to acknowledge receipt of an open meetings complaint filed by you against the Newell School Board. The complaint was forwarded to me by the Butte County State's Attorneys Office. A copy of the complaint materials are enclosed and have been submitted to the Newell School Board for their response. I have asked the School Board to reply no later than February 8, 2016. I have also asked the School Board to mail you a copy of any response they file.

The Open Meetings Commission has not yet scheduled its next meeting. You will be notified of the location, date and time of the meeting once it is scheduled. You will be asked to make a brief oral presentation regarding the complaint when it is heard by the Commission. You may waive this presentation if you wish.

If you have any questions please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Blair".

Steven R. Blair  
Assistant Attorney General

Enclosures

CC w/o encl: Todd Youngberg, Newell School Board Chairman  
Cassie Wendt, Butte County State's Attorney





STATE OF SOUTH DAKOTA



**OFFICE OF ATTORNEY GENERAL**

1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501

Phone (605) 773-3215

Fax (605) 773-4106

TTY (605) 773-6585

<http://atg.sd.gov/>

**MARTY J. JACKLEY**  
ATTORNEY GENERAL

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

January 5, 2016

Todd Youngberg  
Newell School Board  
P.O. Box 99  
501 Dartmouth  
Newell, SD 57760

Re: Open Meeting Complaint 2015-04, Newell School Board – Butte County

Chairman Youngberg,

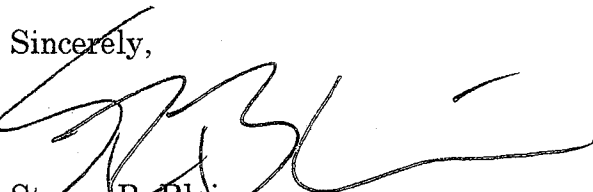
I have received an open meetings complaint concerning the Newell School Board. The complaint was signed by Neal Rogers. The complaint was forwarded to the Open Meetings Commission, pursuant to SDCL 1-27-6(3), by then Butte County States Attorney Heather Plunkett. Enclosed is a copy of all the materials received regarding the complaint.

If the Newell School Board is represented by an attorney please have them contact me at their convenience. If the School Board wishes to file a response to the complaint please send it to the above address on or before February 8, 2016. Please also send copies of any response to Mr. Rogers (207 Second Street, P.O. Box 74, Newell, SD 57760) and to the Butte County State's Attorneys Office.

After any response is received, all materials will be sent to the members of the Commission prior to the Commission's next meeting. The School Board will be asked to make a short oral presentation regarding the complaint at the meeting. You may waive this presentation if you wish. As of yet the Commission has not scheduled its next meeting, but you will be provided notice of the location, date and time once it is scheduled.

If you have any questions please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Blair', with a long horizontal flourish extending to the right.

Steven R. Blair  
Assistant Attorney General

Enclosures

CC w/ encl: Neal Rogers  
Cassie Wendt, Butte County State's Attorney





**Nies & Karras, P.C.**  
ATTORNEYS AT LAW

*SRB Attorney General*  
**FEB - 1 2016**  
383548  
Lester Nies JD.  
*Licensed in South Dakota and Wyoming*  
Eric John Nies JD  
*Licensed in South Dakota and Wyoming*  
Dillon J. Karras JD  
*Licensed in South Dakota*

January 29, 2016  
*Formerly Hood & Nies, P.C.*

Steven R. Blair  
Asst. Attorney General  
Office of Attorney General  
1302 East Highway 14, Suite 1  
Pierre, SD 57501

Neal Rogers  
PO Box 74  
207 Second Street  
Newell, SD 57760

Cassie Wendt, State's Attorney  
Butte County State's Attorney Office  
849 Fifth Avenue  
Belle Fourche, SD 57717

RE: OMC COMPLAINT 2015-04

Dear Addressees:

Enclosed as service by US Mail upon you are the Certificate of Service, School Board Motions to Dismiss; School Board Response to Complaint; School Board Affidavit of Joel Hovland; School Board Affidavit of Don Alexander, on behalf of the Newell School District No. 09-2.

Yours truly,

LESTER NIES

cc: Mr. Youngberg, Mr. Alexander, Mr. Hovland

STATE OF SOUTH DAKOTA  
OPEN MEETINGS COMMISSION

---

IN THE MATTER OF OPEN MEETINGS )	CERTIFICATE OF
COMPLAINT 2015-04; NEWELL SCHOOL )	SERVICE
BOARD, BUTTE COUNTY, SOUTH DAKOTA )	

---

The undersigned hereby certifies that the following legal documents were mailed by U.S. Mail, postage prepaid, to the following addressees, to wit, on the date set forth below: School Board Motions to Dismiss; School Board Response to Complaint; School Board Affidavit of Joel Hovland; School Board Affidavit of Don Alexander:

Steven R. Blair  
Asst. Attorney General  
Office of Attorney General  
1302 East Highway 14, Suite 1  
Pierre, SD 57501

Neal Rogers  
PO Box 74  
207 Second Street  
Newell, SD 57760

Cassie Wendt, State's Attorney  
Butte County State's Attorney Office  
849 Fifth Avenue  
Belle Fourche, SD 57717

Dated this 29<sup>th</sup> day of January, 2016 at Spearfish, S.D.

NIES & KARRAS, P.C.,

By: \_\_\_\_\_

Lester Nies

Attorneys for Newell School Dist. 09-2  
PO Box 759, 109 Main St.  
Spearfish, S.D. 57783  
(605) 642-2757

STATE OF SOUTH DAKOTA  
OPEN MEETINGS COMMISSION

---

IN THE MATTER OF OPEN MEETINGS            ) SCHOOL BOARD'S MOTIONS  
COMPLAINT 2015-04; NEWELL SCHOOL        ) TO DISMISS COMPLAINT  
BOARD, BUTTE COUNTY, SOUTH DAKOTA    )

---

Comes now Lester Nies, Nies & Karras, P.C., Spearfish, South Dakota, attorney for Newell School District No. 09-2, and respectfully submits the following Motions to Dismiss the Open Meetings Complaint 2015-04:

1.     Move to dismiss the Complaint to the extent the same concerns alleged discussion of Neal Rogers at Executive Sessions of the Newell School Board on basis and for the reasons that the allegations of a violation are so vague as to prevent the Newell School Board from answering the Complaint. The Complaint does not state any date for which Executive Session of the Board was held at which an alleged violation concerning discussing Neal Rogers occurred, and fails to state which subsection of SDCL 1-25-2 the Board is alleged to have violated at any such Executive Session. The Complaint fails to state what the Board's purpose was for calling the Executive Session where it is alleged the Board discussed Neal Rogers, and fails to state what was allegedly said about Neal Rogers, or in what context any such statement was made.

2.     Move to dismiss the Complaint to the extent the same concerns an alleged violation "of the spirit of SDCL 1-25-2 (1)" by the Newell School Board on the basis and for the reason that there no legal definition of what the "spirit" of a statute is or how it can be violated or not violated by the Newell School Board.

3.     Move to dismiss the Complaint to the extent the same concerns an alleged violation "of the spirit of SDCL 1-25-2 (1)" by "Mr. Hovland and/or the Newell School Board" on December 15, 2014 due to alleged "abuse" of the "executive session process" on the basis and for the reason the allegation is so vague as to prevent the Board from answering the Complaint concerning an actual violation of the statute.

4. Move to dismiss the Complaint to the extent the same concerns an alleged violation SDCL 1-25-2 (1) by the Newell School Board on December 15, 2014 on the basis and for the reason the allegation fails to state a claim upon which any relief can be granted. The agenda for said meeting clearly stated the purpose of the meeting was to meet with coaches, and SDCL 1-25-2 (1) expressly authorizes the School Board to discuss the qualifications, competence, performance, character or fitness of any public officer or employee. The coaches were employees of the Newell School District and were within the scope of SDCL 1-25-2 (1), and this meeting with the coaches took place after their South Dakota Professional Teachers Practices and Standards Commission hearings were finished.

5. Move to dismiss the Complaint to the extent the same concerns allegations relative to the superintendent/high school principal's memoranda notations on the meeting agendas because the same, if a violation (which is denied) is an alleged violation of SDCL 1-27-1.16, which is a public record's statute for which the Open Meetings Commission lacks jurisdiction to determine.

6. Move to dismiss the Complaint to the extent the same concerns allegations relative to the superintendent/high school principal's memoranda notes on the meeting agendas because the same is an alleged violation of SDCL 1-27-1.16 (which is denied) and the Complainant Neal Rodgers made no informal or formal request under the public records statutory system in SDCL Ch. 1-27 for copies of the meeting agendas with the superintendent/high school principal's memoranda notations, and has failed to follow the statutory remedies provided in SDCL Ch.1-27.

7. Move to dismiss the Complaint to the extent the same concerns allegations relative to the superintendent/high school principal's memoranda notes on the meeting agendas because the same are exempt from inspection and copying under SDCL 1-27-1.5 (14) as memoranda or working papers, and SDCL 1-27-1.16 as related to executive session under SDCL 1-25-2.

8. Move to dismiss the Complaint in its entirety on the basis and for the reasons set forth in this Commissions' Conclusion of Law No. 3 in OMC 2014-01, Lincoln Township - Lincoln County: "The Open Meetings Commission may not take



action based upon general allegations of past conduct. The Commission believes that sufficient factual information must be pled in a complaint that would put the responding public body on notice as to what violation is alleged and when the violation is alleged to have occurred. Absent these specific facts, a public body is not provided proper notice and an adequate opportunity to defend itself and its actions." The Complaint is rife with general allegations of past conduct without sufficient factual information to put the Newell School Board on notice of what violation was alleged and when it was alleged to have occurred.

Wherefore, the Newell School Board respectfully moves the Open Meeting Commission to dismiss the Open Meetings Complaint as prayed for above.

Dated this 29 day of January, 2016.

NIES & KARRAS, P.C.

  
\_\_\_\_\_  
Lester Nies

Attorney for Newell School Board  
PO Box 759, 109 Main St.  
Spearfish, SD 57783  
(605) 642-2757

STATE OF SOUTH DAKOTA  
OPEN MEETINGS COMMISSION

---

IN THE MATTER OF OPEN MEETINGS	) SCHOOL BOARD RESPONSE
COMPLAINT 2015-04; NEWELL SCHOOL	) TO OPEN MEETINGS COMPLAINT
BOARD, BUTTE COUNTY, SOUTH DAKOTA	) 2015-04

---

Comes now Lester Nies, Nies & Karras, P.C., Spearfish, South Dakota, attorney for Newell School District No. 09-2, and respectfully submits the following School Board Response to Open Meetings Complaint 2015-04:

1. This Response is subject to the School Board's Motions to Dismiss which are served herewith and are incorporated herein by reference.
2. The Open Meetings Complaint includes four different allegations. The first allegation is a general and vague allegation that the School Board discussed Neal Rogers in Executive Sessions. As noted in our Motion to Dismiss No. 1, the School Board cannot reasonably be expected to offer a defense to such a vague and speculative allegation. There is no stated date for which Executive Session the alleged violation occurred. Had a date been stated, the School Board could have at least responded with why the particular Executive Session was called and what their recollection may have been about the discussion. It can only be speculated that Executive Sessions *may* have involved personnel or legal matters that *may* have involved one or more members of the Rogers family. However, without any dates, or any allegations about what the School Board is alleged to have done in violation of SDCL 1-25-2, or even which section of SDCL 1-25-2 was alleged to have been violated, the School Board should not be placed in a position of having to "guess" at a response to this Commission. The School Board respectfully requests these allegations of the Complaint be dismissed.
3. The second allegation in the Open Meetings Complaint stated by former State's Attorney Plunkett's letter of December 1, 2015 is that the School Board violated the "spirit of SDCL 1-25-2 (1)." Though former State's Attorney Plunkett's letter does

not expressly so state, it appears this allegation is aimed at the December 15, 2014 Executive Session (which is discussed in detail below). As noted in our Motions to Dismiss Nos. 2 and 3, to the extent the Complaint relates to the alleged discussion of Neal Rogers at Executive Sessions without any stated dates, and without stating what the School Board was alleged to have done in violation of which subsection of SDCL 1-25-2, etc., as discussed in No. 2 above, our Motions to Dismiss No. 1 and 2 directly apply to such allegations. The School Board cannot defend against an allegation of the violation of the "spirit" of SDCL 1-25-2(1) because there is no legal definition of what the "spirit" of that statute is as stated in our Motion to Dismiss No. 3. Further, this allegation is so vague as to prevent the School Board from stating a defense as has already been noted in No. 2 above. To the extent the Complaint allegations relate to the alleged discussion of Neal Rogers at Executive Sessions by the School Board, the School Board respectfully requests these allegations of the Complaint be dismissed.

4. The third allegation in the Open Meetings Complaint as related by former State's Attorney Plunkett's letter is that the School Board violated "the spirit of SDCL 1-25-2(1)" at the December 15, 2014 Executive Session, but the allegation appears aimed at Newell Superintendent Joel Hovland who is alleged to have "negatively influenced the transparency and objectivity of the Newell School Board" as related to some of the Newell School coaches who had been the subject of a S.D. Professional Teachers Practices and Standards Commission complaint (PTPSC). In response to this allegation, the School Board again repeats its request for this Commission to dismiss the Complaint for the reasons stated in Nos. 1 and 2 and our Motions to Dismiss 1, 2 and 3, particularly because the allegation is based on the "spirit" of a statute, not the actual violation of that statute. There is absolutely no evidence presented in the Complaint that shows either Superintendent Hovland or any Board Member "influenced the transparency and objectivity" of the School Board as related to these coaches. It is crystal clear the PTPSC is an administrative board at the State level created under SDCL 13-43-17, et. seq., and stands separate and apart from the Newell School Board, having its own hearing procedures and making its own rulings as provided in SDCL 13-43-25 and 13-43-28, etc. The fact that the School Board heard

from the coaches *after* the PTPSC hearings were completed cannot by any stretch be deemed as "influencing" the PTPSC or the School Board members.

5. Both the written Complaint of Neal Rogers and the December 1, 2015 letter to the Commission by former State's Attorney Plunkett violate this Commissions' Conclusion of Law No. 3 in OMC 2014-01, Lincoln Township - Lincoln County: "The Open Meetings Commission may not take action based upon general allegations of past conduct. The Commission believes that sufficient factual information must be pled in a complaint that would put the responding public body on notice as to what violation is alleged and when the violation is alleged to have occurred. Absent these specific facts, a public body is not provided proper notice and an adequate opportunity to defend itself and its actions."

6. In further response to this third allegation concerning the December 15, 2014 Executive Session, the School Board attaches to this Response the Affidavit of Joel Hovland and the Affidavit of Don Alexander. Hovland is the current Supertintendent/High School Principal at Newell School, and Alexander is a current Board Member and was Board Chairman at the December 15, 2014 Executive Session. It is noteworthy that *Jennifer Srstka was not present at the December 15, 2015 School Board Meeting or at the Executive Session*. Any allegations related to either Neal Rogers or to former State's Attorney Plunkett by Ms. Srstka about alleged violations of SDCL 1-25-2(1) at the December 15, 2014 Executive Session cannot be made with Ms. Srstka's personal knowledge because she was not there.

7. The Affidavits of Hovland and Alexander relate to the Commission what occurred at the December 15, 2014 Executive Session, which was a meeting requested by Newell School coaches to relate their frustration and concerns that they did not have community support as related to the Rogers complaints before the S.D. Professional Teachers Practices and Standards Commission. As noted in Hovland's Affidavit, the December 15, 2014 Executive Session with the coaches occurred *after* the PTPSC commission hearings were held on December 9, 2014 and were closed. As stated in both Affidavits, the School Board advised the coaches the Board Members were staying neutral on the situation, although they expressed sympathy for the coaches' position.

The School Board took no official position concerning the coaches at the December 15, 2014 meeting.

8. The School Board, at its meeting on January 19, 2015, unanimously approved a motion to provide financial assistance to two coaches for their legal fees for defending themselves, but again this occurred *after* the December 9, 2014 PTPSC hearings. It is also noteworthy for the Commission to know that Jennifer Srstka's husband appeared at the PTPSC hearings as a witness against the Newell coaches. Not only does Ms. Srstka lack personal knowledge of what was said or done at the December 15, 2014 Executive Session concerning the coaches due to her absence, she is in a conflict of interest position relative to the coaches which she has not revealed to this Commission or to former State's Attorney Plunkett in the Open Meetings Complaint documents.

9. SDCL 1-25-2(1) expressly authorizes the School Board to discuss the qualifications, competence, performance, character or fitness of any public officer or employee in executive session. The School Board's Agenda for December 15, 2014 stated the purpose of the executive session was to meet with coaches. There is no dispute that the coaches are employees of the District. There was no violation of SDCL 1-25-2(1) by the Newell School Board in meeting with the coaches to discuss their personnel concerns. For all of these reasons, the School Board respectfully requests that the Complaint be dismissed pursuant to our Motion to Dismiss No. 4.

10. The fourth allegation in the Open Meetings Complaint is that Superintendent Hovland "inappropriately dictates meeting agendas by adding information to School Board agendas that is not provided to the public," as stated in former State's Attorney Plunkett's letter of December 1, 2015. The School Board has moved to dismiss this allegation of the Complaint on the basis and for the reason that, with due respect to this Commission, the Open Meetings Commission lacks jurisdiction over what is clearly and expressly a public record matter covered by SDCL Ch. 1-27. Such lack of jurisdiction was recited by the Commission in OMC 2014-01, Lincoln Township - Lincoln County, Findings and Conclusions, Conclusions of Law No.2: "The Open Meetings Commission does not have jurisdiction to take action on matters

outside the requirements of SDCL ch. 1-25."

11. This Commission's authority is contained in SDCL Ch. 1-25, and specifically SDCL 1-25-6 to 1-25-7. SDCL Ch. 1-25 covers public meeting, executive sessions and minutes of proceedings (SDCL 1-25-1 to 1-25-3). Agendas of public meetings are not contained in SDCL Ch. 1-25, but are specifically referenced in SDCL 1-27-1.16. That statute states, in relevant part, that "...if any *printed material relating to an agenda item* of the meeting is prepared or distributed by or at the direction of the governing body or any of its employees and the printed material is distributed before the meeting to all members of the governing body, the material shall either be posted on the governing body's website or made available at the official business office of the governing body at least twenty-four hours prior to the meeting or at the time the material is distributed to the governing body, whichever is later. ... However, the provisions of this section *do not apply to any printed material or record that is specifically exempt from disclosure under the provisions of this chapter or to any printed material or record regarding the agenda item of an executive or closed meeting held in accordance with Sec. 1-25-2....*" (Emphasis supplied).

12. Subject to the School Board's Motion to Dismiss Nos. 5, 6 and 7, and only for purposes of presenting argument in the alternative if the Open Meetings Commission undertakes consideration of this portion of the Complaint (which is objected to by the School Board), then the School Board makes the following responses. First, SDCL 1-27-35 and 1-27-37 contain the statutory procedure for informally or formally requesting a record from the Newell School District. Neither Neal Rogers nor former State's Attorney Plunkett allege that either an informal or formal request for any public records was made by Neal Rogers. Further, had this occurred and been denied (which is wholly speculative, but presented for argument only), then SDCL 1-27-38 to 1-27-41 contain the statutory remedies for a contested case involving denial of a public record request. Nowhere in SDCL 1-27-38 to 1-27-41 is the Open Meetings Commission mentioned as a public body with any jurisdiction over a public records dispute.

13. Secondly, and subject to our Motions No. 5, 6 and 7, if the Open Meetings Commission undertakes consideration of this allegation under the Complaint, the School Board states that Superintendent Hovland's "notes" on the Agendas are not subject to disclosure under SDCL 1-27-1.5 (14): "Correspondence, *memoranda*, calendars or logs of appointments, *working papers*, and records of telephone calls of *public officials or employees*..." (*Emphasis supplied*). A review of Superintendent Hovland's "notes" (which is what they are referred to by the complaining party in handwriting at the top of the Agendas) are simply his memoranda or working paper to the Board Members as to what is anticipated to be discussed at the public meeting or executive session. These memoranda or working papers are not "...printed material relating to an agenda item of the meeting..." as recited in SDCL 1-27-1.16 above. These "notes" are just that - memoranda or working papers by a District employee to District Board Members, all of which are exempt from inspection and copying. Further, some of these "notes" relate directly to executive session information which is also expressly exempted under SDCL 1-27-1.16.

14. Further, and again only for purposes of argument in the alternative the Open Meetings Commission does not dismiss this portion of the Complaint, it is clear the public's best interest is served by efficient governmental operations, and the Superintendent's "notes" on the Agenda serve to inform Board Members of issues so they can be better prepared to address them in the public meeting or executive session. The exemption of memoranda and working papers under SDCL 1-27-1.5 from inspection or copying applies with equal force to the Superintendents "notes" which are his memoranda placed on Agendas and constitute his working papers made for the benefit of the Board Members to conduct public meetings and executive sessions.


15. Finally, in summary, the Newell School Board has moved this Commission to dismiss the Complaint for the reasons stated in our Motion No. 8, which is also discussed herein: the failure of the Complaint to contain sufficient factual information to put the Newell School Board "on notice as to what violation is alleged and when the violation is alleged to have occurred." The School Board has not been provided proper notice or an adequate opportunity to defend itself and its actions in this matter, although

the School Board has attempted to provide the Commission with a response and has taken the matter seriously.

Wherefore, the Newell School Board respectfully moves the Open Meeting Commission to dismiss the Open Meetings Complaint as prayed for above and in the School Board's Motions to Dismiss. The Board reserves its opportunity to present an oral presentation to the Commission.

Dated this 29 day of January, 2016.

NIES & KARRAS, P.C.

  
Lester Nies

Attorney for Newell School Board  
PO Box 759, 109 Main St.  
Spearfish, SD 57783  
(605) 642-2757



STATE OF SOUTH DAKOTA  
OPEN MEETINGS COMMISSION

---

IN THE MATTER OF OPEN MEETINGS )	SCHOOL BOARD AFFIDAVIT
COMPLAINT 2015-04; NEWELL SCHOOL )	OF JOEL HOVLAND
BOARD, BUTTE COUNTY, SOUTH DAKOTA )	

---

State of South Dakota        )  
                                      )SS.  
County of Butte                )

Comes now Joel B. Hovland, Superintendent/High School Principal of Newell School District No. 09-2, and being first duly sworn upon oath and in response to the Open Meeting Commission complaint, deposes and states as follows:

1. I attended the December 15, 2014 Newell School Board Meeting and Executive Session.
2. Board Member Jennifer Srstka was absent from the December 15, 2014 Newell School Board Meeting and Executive Session.
3. My recollection of what was said at this Executive Session is that Newell School coaches who had charges made against them by the Rogers to the S.D. Professional Teachers Practices and Standards Commission (PTPSC) wanted to come to see the Board, and they told the Board members they felt there was a lack of support for the coaches in the community. I personally attended the PTPSC hearings for the Newell teachers and coaches on December 9, 2014. This Executive Session occurred a few days after the hearings were finished and before any decisions were issued by the Commission.
4. I observed that while Board members were generally sympathetic with the coaches' concerns, the consensus of the discussion with the coaches was that the Board members could not become involved with the PTPSC hearings because the Board may have to act as a District hearing board in the future for personnel matters, and they were remaining neutral.

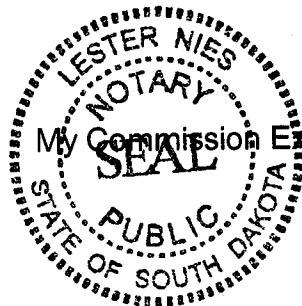
5. I also believe it is important for the Open Meetings Commission members to know I observed that Jennifer Srstka's husband appeared as a witness at the December 9, 2014 PTPSC hearings against the Newell coaches.

6. My email string of December 10 to 12, 2014 with Jennifer Srstka was submitted to the Commission as part of the Open Meetings Complaint and a copy is attached to this Affidavit (Exhibit A). My email of January 10, 2014 indicates that I attended the PTPSC hearings on December 9, 2014, and I was disappointed that their decision would not be issued until the following month. I told Jennifer in that email string that the Board could listen to the concerns of the coaches in executive session and that the Board would take no official stance regardless of what was discussed. That is in fact what occurred, and the Board did not take an official stance on the coaches concerns at that meeting, which occurred after the PTPSC hearings were completed.

Dated this 26<sup>th</sup> day of January, 2016.

  
Joel B. Hovland

Subscribed and sworn to before me this 26<sup>th</sup> day of January, 2016.



My Commission Expires:

4/27/2018

  
Notary Public

**Eichstadt, Craig**

---

**From:** Hovland, Joel  
**Sent:** Friday, December 12, 2014 10:27 AM  
**To:** don Alexander  
**Subject:** fwd; jennifer concerns

Don,  
The below thread is just a heads up. Start at the bottom and scroll up to follow the exchange.  
Joel

**From:** Hovland, Joel  
**Sent:** Friday, December 12, 2014 9:25 AM  
**To:** Jennifer Srstka  
**Subject:** FW: board agenda with notes

The Board can listen to concerns of coaches in executive session because this is not a topic for open session. The board will take no official stance regardless of what is discussed.

**From:** Jennifer Srstka [<mailto:jsrstka@sdplains.com>]  
**Sent:** Wednesday, December 10, 2014 8:42 PM  
**To:** Hovland, Joel  
**Subject:** Re: board agenda with notes

My understanding was that the board was not supposed to be involved in this legal matter at this time. So, I guess my question was, would our lawyer say that it is advisable to have this meeting with them?

On Dec 10, 2014, at 3:51 PM, Hovland, Joel wrote:

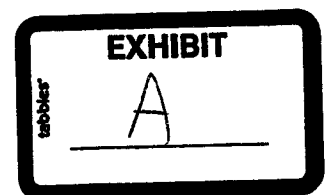
Our lawyer is not in on this at all. He has never been in on the allegations against any of the teachers.

**From:** Jennifer Srstka [<mailto:jsrstka@sdplains.com>]  
**Sent:** Wednesday, December 10, 2014 3:28 PM  
**To:** Hovland, Joel  
**Subject:** Re: board agenda with notes

Has our lawyer consented to this executive session with the coaches regarding this particular issue? Will he be in attendance?

--Jennifer

On Dec 10, 2014, at 9:26 AM, Hovland, Joel wrote:



The attachment contains some quick notes on the upcoming board meeting...  
Coaches hearing yesterday took the whole day and the Ethics Committee  
postponed a decision until their next month's meeting... That is just wrong!!!

Joel B Hovland  
Superintendent/HS Principal  
Newell School  
719 588-6789

CONFIDENTIALITY NOTICE: This e-mail communication, including any attachments, is intended solely for the use of the designated recipient named above and may contain confidential and privileged information. If you are not the intended recipient (or authorized to receive for the recipient), you are hereby notified that any review, disclosure, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please contact the sender by reply e-mail and destroy all copies of this communication and any attachments.

<December 2014 Board Meeting with notes.doc>

STATE OF SOUTH DAKOTA  
OPEN MEETINGS COMMISSION

---

IN THE MATTER OF OPEN MEETINGS	)	SCHOOL BOARD AFFIDAVIT
COMPLAINT 2015-04; NEWELL SCHOOL	)	OF DON ALEXANDER
BOARD, BUTTE COUNTY, SOUTH DAKOTA	)	

---

State of South Dakota        )  
                                      )SS.  
County of Butte                )

Comes now Don Alexander, current Board Member and former Chairman of the Board for Newell School District No. 09-2, and being first duly sworn upon oath and in response to the Open Meeting Commission complaint, deposes and states as follows:

1. I attended the December 15, 2014 Newell School Board Meeting and Executive Session and was the Board Chairman at the time.
2. Board Member Jennifer Srstka was absent from the December 15, 2014 Newell School Board Meeting and Executive Session. The minutes of the December 15, 2014 Board meeting are attached (Exhibit A) and reflect her absence.
3. Newell School coaches came to the Board in Executive Session to tell us their concerns that there was a lack of support for them in response to the charges made against them to the S.D. Professional Teachers Practices and Standards Commission (PTPSC) by the Rogers. They appeared before us after the PTPSC hearings were finished.
4. We told the coaches that while we understood their concerns, the Board members could not become involved in their PTPSC hearings because the Board may have to act as a District hearing board in the future for personnel matters. I felt that after this meeting, the coaches understood that Board members needed to remain neutral.
5. At the January 19, 2015 School Board Meeting, the Board unanimously voted to approve payment of legal fees for two coaches. I am attaching the minutes of the January 19, 2015 Board meeting (Exhibit B) which reflect this action. This resolution and

Board action took place in open session after the PTPSC hearings for the coaches were finished, and at a separate meeting after the December 15, 2014 Executive Session.

Dated this 26 day of January, 2016.

Don Alexander  
Don Alexander

Subscribed and sworn to before me this 26 day of January, 2016

Notary Public



My Commission Expires:

9/27/2018

BOARD OF EDUCATION MINUTES  
NEWELL SCHOOL DISTRICT #9-2  
DECEMBER 15, 2014

Chairman Alexander called the Newell Board of Education meeting to order at 6:30 p.m. with members Jeremiah Weeldreyer, LeAnne Wells, , Kim Jackson, Todd Youngberg, Julie VanDerBoom present. Absent member Srstka. Also present were Supt.,/9-12 Principal Hovland, Pre K-8 Principal Paulson, Business Mgr. Pflaumer, Karen Wallace, John Wallace, Ashley Lewis, Tyrel Bonnet, Mike Phelps, Kim Richards, Alicia Schrank, Sabrina Harmon, Colette Kellogg, Danelle Mutchler, Kim Smeenk, Aileen Brunner, Millie Hanson, Heather Brown, Anna Erk, Mel Williamson, Lacey Hewitt, Cara Muckridge, Stacy Hannah, Scott Wince, T.J. Steele, Tyler Mutchler, Kyle Sanderson.

**PRESENTATIONS**

Millie Hanson invited the Board to Leadership Day activities on Thursday, December 18<sup>th</sup>. The W.I.T. Coalition and the Newell S.A.D.D. Team are the sponsors.

Annie Miller, Rachel Boesem and Caleb Mutchler met with the Board and passed out copies of the "Irrigator Investigator" the weekly M.S. Newspaper. Each explained what their part or job was and are hoping to get out two newspapers weekly sometime next year.

**OPEN FORUM**

Millie Hanson met with the Board to present the case for use of ear buds or other in- ear apparatus during classroom time. The Board agreed to allow the request, on a trial basis to allow students to listen to music during school hours and under a discretionary clause.

**APPROVE AGENDA**

Motion by Jackson to approve the agenda with additions/changes, second by VanDerBoom. Vote: Unanimous. Carried.

**APPROVE MINUTES**

Motion by Jackson, to approve the minutes from the November 10, 2014 meeting, second by Wells. Vote: Unanimous. Carried.

**APPROVE PAYMENT OF BILLS**

Motion by Wells to approve payment of General Fund, Capital Outlay, SPED and Food Service Fund bills, December pre-paid and December 15, 2014 bills, second by Jackson. Vote: Unanimous. Carried.

**APPROVE FINANCIAL REPORT**

Motion by Wells to approve the November Financial Report, second by Jackson. Vote: Unanimous. Carried.

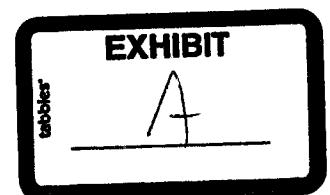
**DISCUSSION**

The Newell School District Foundation was discussed. Supt. Hovland recommends that the Board appoint new Board of Directors for the Foundation. More information will be given at the next School Board meeting in January.

The new phone system upgrade was discussed. WRTC will start with rooms that have no phones, with the upgrading to be finalized sometime this week.

The 2015-2016 Calendar was discussed. Supt. Hovland presented two different calendars for the Board to review. Calendar (A) staff in-service August 17, 18 & 19 , first day of school would be August 24<sup>th</sup>. The last day of school May 19<sup>th</sup> and graduation on May 21<sup>st</sup>. Calendar (B) staff in-service August 24, 25 & 26, first day of school August 31<sup>st</sup>, graduation May 21<sup>st</sup> and the last day of school May 26<sup>th</sup>.

Supt. Hovland updated the Board on recent legislation, with more discussion on what the Governor proposed.



**APPROVE MINIMUM WAGE INCREASE**

Motion by Jackson to increase the minimum wage amount for Newell School from \$7.25 per hour to \$8.50 per hour, effective January 1, 2015.

**RESIGNATION ACCEPTED**

Chairman Alexander read a letter of resignation from Jennifer Srstka, effective 12-15-14. Motion by VanDerBoom to accept the resignation with appreciation for service to the district, second by Jackson. Vote: Unanimous. Carried.

Motion by Youngberg to fill the position and appoint Matt Rolph to fill out the term, until the next election, second by Wells. Vote: Unanimous. Carried.

Reports were given by staff members at this time.

**EXECUTIVE SESSION**

Motion by Jackson to enter into executive session at 8:00 p.m., to discuss personnel, with coaches, second by VanDerBoom. Vote Unanimous. Carried. The Board returned to regular session at 9:23 p.m.

**ADJOURN**

Motion by Youngberg to adjourn to meet January 19, 2015 at 6:30 p.m., second by VanDerBoom. Vote: Unanimous. Carried.

**UNAPPROVED MINUTES  
NEWELL BOARD OF EDUCATION**

(s) \_\_\_\_\_  
Don Alexander, Chairman

ATTEST: (s) \_\_\_\_\_  
Sally Pflaumer, Business Manager



**BOARD OF EDUCATION MINUTES  
NEWELL SCHOOL DISTRICT #9-2  
JANUARY 19, 2015**

Chairman Alexander called the Newell Board of Education meeting to order at 6:30 p.m. with all members present. Also present were Supt./9-12 Principal Hovland, Pre K-8 Principal Paulson, Business Mgr. Pflaumer, Allen Youngberg, Lisa Bartlet, Brandi Crouse, Kim Smeenck, Paula Reedy, Carrie Wetz, Callie Kukuchka, Amber Wallace, Bailey Bauer, Megan Thornhill, Jodie Severson, Sabrina Harmon, Kyle Sanderson, TJ Steele, Tyler Mutchler, Tyrel Bonnet, Jodi Thornhill, Mary Dixon, Ronda Price, Cheryl McCann, Noreen Yule, Anna Erk, Colette Kellogg, Alicia Schrank, Cara Muckridge, Mike Phelps, Steve Schoenfish, Scott Wince, Michelle Hanson.

New Board member Matthew Rolph was sworn in and signed his Oath of Office.

**PRESENTATIONS**

Paula Reedy, MS/HS Art Teacher displayed various students media works while explaining class projects.

Bailey Bauer, Amber Wallace, Megan Thornhill and Callie Kukuchka members of the FFA Chapter presented a short history and video on Pitchfork Fondue and extended an invitation to everyone to the Pitchfork Fondue on January 20<sup>th</sup>.

**APPROVE AGENDA**

Motion by Youngberg to approve the agenda with additions/changes, second by Jackson. Vote: Unanimous. Carried.

**APPROVE MINUTES**

Motion by Wells to approve the minutes from the December 15, 2015 meeting, second by Weeldreyer. Vote: Unanimous. Carried.

**APPROVE PAYMENT OF BILLS**

Motion by Youngberg to approve payment of General Fund, Capital Outlay, SPED and Food Service Fund bills, January pre-paid and January 19, 2015 bills, second by VanDerBoom. Vote: Unanimous. Carried.

**APPROVE FINANCIAL REPORT**

Motion by Jackson to approve the December Financial report, second by Wells. Vote: Unanimous. Carried.

**DISCUSSION**

Discussion was held on the proposed 2015-2016 School Calendars. The Board has had a month to review both calendars that were presented at the December Board meeting. Motion by Jackson to approve Calendar A with the exception of changing to reflect February 15, 2016 Presidents Day as an off day, second by Wells. Voting yes: Rolph, Wells, Weeldreyer, Jackson, VanDerBoom. Opposed: Youngberg. Carried.

The recent measles outbreak has caused concern, discussion was held on adopting an immunization policy. Since there is a policy in place Chairman Alexander stated that a new one is not needed.

**NEWELL SCHOOL DISTRICT FOUNDATION**

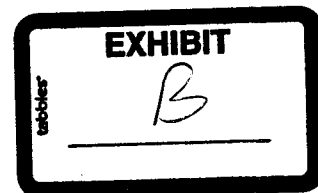
Motion by Wells to appoint the following persons as committee members for the Newell School District Foundation, second by Weeldreyer. Vote: Unanimous. Carried. Barb Paulson, Paula Reedy, Heather Kari, Danelle Mutchler, Sonja Heil.

**ACCEPT RESIGNATION**

Motion by Youngberg, to accept, with regrets the resignation of Carla Wolfer, second by Wells. Vote: Unanimous. Carried.

**APPROVE EMPLOYMENT AGREEMENT**

Motion by Wells to approve an employment agreement for Mike Robinson, custodian, \$8.50/hr., second by Youngberg. Vote: Unanimous. Carried.



**APPOINT LEGISLATIVE ACTION NETWORK MEMBER**

Motion by VanDerBoom to appoint Leanne Wells as Newell School's LAN member, second by Jackson. Vote: Unanimous. Carried.

**SCHOOL BOARD ELECTION**

Motion by Youngberg to combine with Newell City and set the School Board Election for April 14, 2015, second by Rolph. Vote: Unanimous. Carried.

**APPROVE SURPLUS ITEMS**

Motion by Youngberg to surplus two (2) compressors that are obsolete shop equipment as they are no longer necessary, useful, or suitable for the purpose for which they were acquired, second by VanDerBoom. Vote: Unanimous. Carried.

**APPROVE AUDIT**

Supt. Hovland, Business Mgr. Pflaumer, Don Alexander and Kim Jackson met with Traci Hanson, CPA representing Ketel Thorstenson, LLP for a final report on the recent audit as of June 30, 2014. Motion by Jackson to approve the June 30, 2014 Audit, second by Wells. Vote: Unanimous. Carried.

**APPROVE MEMBERSHIP**

Motion by VanDerBoom to approve payment of entire memberships to the Association of American Educators for all full time employees and coaching staff of Newell School District, second by Wells. Vote: Unanimous. Carried.

Reports were given by staff members at this time.

**EXECUTIVE SESSION**

Motion by Jackson to enter into executive session at 8:15 p.m. to discuss personnel issues, second by Wells. Vote: Unanimous. Carried. The Board returned to regular session at 10: 20 p.m.

Motion by Rolph to pay legal expenses for Scott Wince and Steve Schoenfish totaling \$8,313.22, second by VanDerBoom. Vote: Unanimous. Carried.

**ADJOURN**

Motion by VanDerBoom to adjourn to meet February 16, 2015 at 6:30 p.m., second by Jackson. Vote: Unanimous. Carried.

**UNAPPROVED MINUTES****NEWELL BOARD OF EDUCATION**

(s) \_\_\_\_\_

Don Alexander, Chairman

ATTEST: (s) \_\_\_\_\_

Sally Pflaumer, Business Manager

Published once at the total approximate cost of \$ \_\_\_\_\_.



STATE OF SOUTH DAKOTA



**OFFICE OF ATTORNEY GENERAL**

1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501

Phone (605) 773-3215  
Fax (605) 773-4106  
TTY (605) 773-6585  
<http://atg.sd.gov/>

**MARTY J. JACKLEY**  
ATTORNEY GENERAL

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

March 22, 2016

Neal Rogers  
207 Second Street  
P.O. Box 74  
Newell, SD 57760

Lester Nies  
Nies & Karras, P.C.  
109 Main Street  
P.O. Box 759  
Spearfish, SD 57783

Re: In the Matter of Open Meeting Complaint 2015-04, Newell School Board –  
Butte County

Dear Mr. Rogers & Mr. Nies,

Enclosed please find a Notice of Hearing regarding the above referenced open meetings complaint. Also enclosed, please find a courtesy copy of the proposed agenda for the Commission's May 4th meeting. As you can see from the agenda, presentations regarding complaints will begin at 2:00 p.m. mountain time, or as soon thereafter as matters may be heard.

If you have any questions, please don't hesitate to contact me.

Sincerely,



Steven R. Blair

Assistant Attorney General

SRB/jm  
Enclosure

STATE OF SOUTH DAKOTA  
OPEN MEETINGS COMMISSION

---

IN THE MATTER OF OPEN	)	OMC 2015-04
MEETINGS COMPLAINT AGAINST	)	
NEWELL SCHOOL BOARD -	)	NOTICE OF HEARING
BUTTE COUNTY	)	

---

TO: Neal Rogers, 207 Second Street, Post Office Box 74, Newell, South Dakota 57760; and Newell School Board, through their counsel of record, Lester Nies, Nies & Karras, P.C., 109 Main Street, Post Office Box 759, Spearfish, South Dakota 57783:

Please take notice that a hearing regarding the above referenced open meetings complaint will be held before the South Dakota Open Meetings Commission, at The Lodge at Deadwood, Roosevelt Room, 100 Pine Crest Lane, Deadwood, South Dakota, on Wednesday, May 4, 2016. Oral presentations regarding pending complaints will commence at 2:00 P.M. mountain time, or soon thereafter as matters may be heard, and proceed in the order noted in the attached agenda.

Dated this 22 day of March, 2016.



Steven R. Blair  
Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501  
Telephone: (605) 773-3215

SOUTH DAKOTA OPEN MEETING COMMISSION

**AGENDA**

The Lodge at Deadwood  
Roosevelt Room  
100 Pine Crest Lane  
Deadwood, South Dakota

May 4, 2016  
2:00 p.m. Mountain Time

1. Approval of the Agenda.
2. Approval of the Minutes of December 16, 2015 meeting.
3. *In the Matter of Open Meeting Complaint 15-03 Deadwood City Commission*

Oral Presentations:

Complainant Mark Watson -15 minutes (a portion of this time may be reserved for rebuttal)

Deadwood City Commission -15 minutes

4. *In the Matter of Open Meeting Complaint 15-04 Newell School Board*

Oral Presentations:

Complainant Neal Rogers -15 minutes (a portion of this time may be reserved for rebuttal)

Newell School Board -15 minutes

6. Consideration of the Motion for Reconsideration *In the Matter of Open Meeting Complaint 15-01, Mitchell City Council.*
7. Consideration of Findings of Fact and Conclusions of Law *In the Matter of Open Meeting Complaint 15-01, Mitchell City Council.*
8. Consideration of Findings of Fact and Conclusions of Law *In the Matter of Open Meeting Complaint 15-02, Sully County Planning and Zoning Commission, Sully County Commission, and the Sully County Planning and Zoning Commission sitting as the Board of Adjustment.*
9. Discussion regarding preparation of the minutes.
10. Discussion of 2016 Legislative Session.
11. Discussion regarding future legislation.

All items are scheduled for 2:00 P.M. Mountain Time. Scheduled items may be delayed or moved to a later agenda item at the discretion of the OMC.

For information call Steve Blair 605-773-3215.

Notice is given to individuals with disabilities that this meeting is being held in a physically accessible location. Please notify the Attorney General's Office, 605-773-3215, at least 48 hours before the meeting if you have a disability for which special arrangements must be made.